

EXHIBIT D

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HEADLINE: Montana Town Grapples With Asbestos Ills

BYLINE: By MICHAEL JANOFSKY

DATELINE: LIBBY, Mont.

BODY:

When W. R. Grace & Company sold them the 21-acre site along the Kootenai River seven years ago, Mel and Lerah Parker were ecstatic. They finally had a tract large enough to build new quarters for their thriving nursery business and a new home.

Now, the business is closed, and bulldozers will soon raze everything on the land, forcing the Parkers to find a new place to live and work. In recent months, tests have revealed that their property is contaminated by a toxic form of asbestos called tremolite, the result of years in which Grace used the site as a transport center for the vermiculite ore the company mined nearby.

Tremolite, a microscopic fiber that causes lung disease and several forms of cancer, occurs naturally in vermiculite, which is used in insulation and dozens of other products.

"Katie, my 7-year-old granddaughter, is asking me if I'm going to die," Mrs. Parker said, sobbing. "Why should children that age be thinking about things like that?"

The Parkers knew of lawsuits linking the mining operations to illness. But Mrs. Parker said no one from Grace ever told them that ore dust -- all over the property when they bought it -- posed any lingering health threat from asbestos.

As a result, the Parkers are among a growing list of Libby residents reeling from the medical, psychological and financial consequences of the mining operation, which over its 67 years provided desperately needed high-paying jobs here in the vast stretches of northwest Montana.

Though Grace shut it down in 1990, the mine is being blamed for scores of cases of respiratory illness and death from exposure to the tremolite. The problems in Libby, a town of 2,700, represent the "most significant single source of asbestos exposure" in the nation's history, said Paul Peronard, a coordinator for the Environmental Protection Agency.

The area contaminated by the mining operation is now the agency's first priority for cleanup, which will probably take six months and cost \$3 million, Mr. Peronard said. Who will pay for the cleanup is still in dispute, but the agency said it would proceed while negotiating with Grace.

In the last 15 years, scores of local residents, armed with medical opinions linking their relatives' deaths to asbestos exposure from mining, have filed lawsuits against Grace, charging negligence and deceit.

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Without acknowledging any deliberate wrongdoing, Grace has settled dozens of cases out of court, largely to avoid expensive litigation, company lawyers said; other cases are still pending. Meanwhile, the company has also offered medical coverage for people who were exposed.

Aside from exacting a human toll, the mining operation has raised questions for people here concerning how much Grace knew about the dangers of asbestos and whether state supervision was too lax.

The story has also caused deep divisions in Libby. Some residents welcome the recent publicity and governmental attention, but others fear they are the new millennium's version of the 1970's environmental disaster in the Love Canal neighborhood of Niagara Falls, N.Y. The story here, they say, might do irreversible damage to a town struggling to share in the nation's economic good times.

While acknowledging the problem, Grace executives said that little was known at the time about the effects of asbestos, and that as knowledge grew, they did their best to comply with the safety standards of the day.

"There is no question in my mind that if the company knew how to do it, if anybody knew how to do it, it was done," said Harry Eschenbach, the company's director of health and safety for 20 years, through 1997.

Mr. Eschenbach insisted that Grace violated no laws, provided annual chest X-rays and updated technologies in Libby. "Sure, the state would come in and tell us to do more," he said. "But do what? The technology wasn't always there. If it was, we'd have used it."

Mr. Eschenbach also denied that Grace hid anything. The workers, he said, had "a right to know the hazards to which they are exposed. I always told them, one on one and in groups of one on two or three."

For the most part, the rising incidence of illness and the ensuing legal battles have played out in relative obscurity. Then, in November, articles by The Daily Inter Lake in Kalispell, Mont., and The Seattle Post-Intelligencer brought new focus to the mining operations and caught the attention of the E.P.A. Tests of air and soil since then found several areas still contaminated by asbestos.

As a result of the review and lawsuits, a fuller picture of the operation and its effect on Libby has emerged.

For as long as the mine operated -- 40 years under the now-defunct Zonolite Company, its last 27 under Grace -- workers, as well as company and state officials, recognized illness as an occupational risk. Nor did anyone especially fear any deadly impact of asbestos in the early days.

In fact, the residue containing asbestos was so abundant and powdery that Libby children were invited to play in it. Many did. Other people took bags home to use as insulation, mulch and cat litter.

Joan Runyan, 73, a former office secretary for Grace, said she used the dust as filler in recipes for muffins and bread and ate it. "At the time, nobody made the connection to any problems," she said, adding that she suffered no ill effects.

But as the years wore on, the mine workers suffered various respiratory illnesses, and deaths from them slowly rose. By the early 1980's, doctors were seeing the same illnesses in the workers' wives and children; family members had been exposed when the miners returned home, still wearing dust-covered workclothes.

Nearly 200 deaths were attributed to asbestos exposure by lawsuits and newspaper studies of medical records and death certificates; no one disputes the figures. And more could be coming. Research shows that asbestos-caused diseases like asbestosis, a fatal scarring of the lungs, can take 30 years or more to develop.

As the pattern became clear, the first of scores of lawsuits was filed in the mid-1980's, asserting that company officials ignored warnings by state agencies to clean up the mining operations. By Grace's own count, it is now a defendant in 121 cases from people exposed in Libby. In 72 previous cases, Grace paid \$15.6 million through 60 settlements and 4 jury verdicts against the company. Eight other suits were dismissed.

For Grace, a giant chemical and packaging company based in Columbia, Md., this is another unwanted environmental fight. The company was the focus of the book and film "A Civil Action," about lawsuits by eight Massachusetts families accusing it of dumping chemicals that leaked into wells and caused leukemia.

Indeed, Grace is a defendant in asbestos-related lawsuits from 105,000 plaintiffs around the country, including those in Libby. But company officials contend that Grace did nothing wrong in Libby.

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Jay Hughes, a lawyer for Grace, said he believed that many of the lawsuits had been filed at the urging of personal injury lawyers. Grace, he said, offered to settle cases to avoid "the risks of a trial."

Some lawsuits, however, include as evidence extensive material -- much of it from Grace's own files -- that shows state and federal agencies warned the company often, and as early as the 1960's, that conditions at the Libby mine, the transport center and Grace's processing plant posed health hazards.

More than 15 years ago, one local doctor, Richard Irons, was so alarmed by the growth in nonoccupational cases of asbestosis that he traveled to a Grace division in Cambridge, Mass., to request money for pulmonary equipment to study the impact of the disease in Libby.

"He was told to leave it alone," said Dr. Brad Black, who was Dr. Irons's partner at the time. "They just dismissed him and did nothing."

Mr. Eschenbach, who met with Dr. Irons, said Grace had already undertaken the study he was suggesting.

Grace has pledged \$250,000 a year "for the foreseeable future" for a screening program in Libby and proposed a long-term health care plan.

But local health officials, residents and their lawyers have criticized both as inadequate; many contend the health care plan enables people to qualify only after they have grown seriously ill or close to death. Dr. Black, who is trying to help establish a trust fund in Libby for asbestos victims, claimed the plan's eligibility requirements would exclude 85 percent of people who are now affected.

Nor have state and federal agencies been especially helpful to Libby, according to the lawsuits. In response to a 1983 inquiry, from Representative James A. Courter of New Jersey, an E.P.A. official, Don R. Clay, said that tests of the mine found only minor problems with asbestos and that the vermiculite industry had improved worker safety.

As a result, Mr. Clay wrote, the agency would turn its efforts against asbestos elsewhere.

Gov. Marc Racicot of Montana, a two-term Republican who grew up in Libby, said the apparent lack of oversight by governmental agencies over the years mirrored times when the country knew little of the hazards of asbestos and when workers happy to have good-paying jobs rarely complained about the inconveniences of any respiratory ailments.

For many years, Mr. Racicot said, state inspections included confidentiality agreements that no information could be made public.

Additionally, by the 1980's, a new era arrived in Washington, a pro-business, anti-regulatory attitude championed by the Reagan administration that believed government should get out of people's lives.

"For many of these people, working was more important than safety," said Mr. Racicot, who recalled playing in piles of asbestos dust as a child. "And in all the conversations I had with family and friends in Libby I've known for years, I never heard one complaint about asbestos."

That all changed in November. The E.P.A. announced a plan to test air and soil samples well into this year and found, initially, two "hot spots" -- the Parker property and the area around what was then the ore processing plant near downtown.

The agency has pledged to clean those sites first, but is also conducting tests in other states where Grace shipped vermiculite over the years.

The growing realization about the damage left by the mines has stirred anger and resentment toward Grace among many local residents. But it has also inspired sympathy for the company from residents who recall how it once made the town thrive.

Some also complain that news coverage has scared off companies that might have relocated here. "I've literally had people on the phone say to me that their doctors have told them it would be suicidal to move here," said Russell S. Barnes, president of the Lincoln County Economic Development Council.

Mr. Peronard, the E.P.A. official, said the area was generally safe. By year's end, he predicted, all remaining problem areas will be eliminated.

But legal fights will not go away. "It's depressing," said Roger Sullivan, a lawyer who has handled 150 Libby suits, "because none of these stories really has a happy ending."

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GRAPHIC: Photos: Libby, Mont., has been left reeling from the medical and financial consequences of a 67-year mining operation.; An E.P.A. soil-sampling stick marks a suspected "hot spot" in Libby, Mont., near the old Grace processing plant for vermiculite ore. (Photographs by Monica Almeida/The New York Times)(pg. A26)

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A Mountain of Trouble Pulls a Town Together;

A mine's legacy of asbestosis leaves a community ailing but determined

BYLINE: Rick Bass, Rick Bass is active in Yaak Valley environmental causes, and is author, most recently, of "The Hermit's Story."

DATELINE: LIBBY, Mont.

BODY:

In the rain forest of northwest Montana's Kootenai National Forest, hidden from public view, sits a mountain with no top. Its peak was sacrificed to the W.R. Grace & Co. vermiculite mine, which once supplied 80% of the world's ore for the manufacture of asbestos. Seen from the air, the dug-out mountain looks like a massive, suppurating sore, with pustulous yellow tailings spreading down through a poisoned, dying forest.

The mine officially closed in 1990, but people are still dying from the poison it released before then. To date, as a direct result of exposure to the ultrafine tremolite fibers in the vermiculite taken from the mine, more than 200 people have died in and around Libby (pop. 3,000). Some of those who died were W.R. Grace's miners; others were friends and family members who came in contact with mine dust on workers' clothing. As the health risks of asbestos exposure became known, W.R. Grace divested billions of dollars of its suddenly vulnerable assets into other companies, then, in 2001, filed for bankruptcy.

Death from asbestosis is not pretty. As the disease progresses over 20 or 30 years, an impenetrable latticework of scar tissue forms on the victims' lungs, making it ever more difficult to breathe. Near the end, the afflicted cannot even walk out to get the morning paper without having to stop and gasp for air.

The Environmental Protection Agency has determined, after extensive monitoring, that the community is safe now. But that doesn't mean the area's troubles are over. We have only 19,000 residents in all of Lincoln County, and of those 7,000 who have been screened for asbestosis, nearly a third show some sort of pleural thickening or abnormality. I am one of the lucky ones, without damage, having moved here the year the mine ceased operating.

Asbestosis isn't W.R. Grace's only legacy. The principal employer in Libby, the county seat, used to be a plywood manufacturer, owned by an Oregon company, Stimson Lumber. The mill employed about 330 people and was responsible for the direct livelihood of about 1,000 people, counting spouses and children. The mill faced the same market forces that have put a squeeze on the entire U.S. plywood industry: the increasing use of far-cheaper pressboard and chipboard instead of plywood and competition from imports of cheap, high-quality plywood from Russia and elsewhere. But the Stimson mill in Libby faced another challenge, that of W.R. Grace's legacy of poison. Because of asbestos liability,

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Stimson's insurer raised the mill's premium by \$600,000 in a single year, and that made the difference between profit and loss in a tight market.

For a time, it looked as if the mill could survive if it just had a source for an additional 10 million board feet of lumber per year. This came at a time when some in Congress (and our own governor, Judy Martz, a self-professed "lap dog of industry") were clamoring to subsidize increased logging in national forests, but our local solution was more moderate and collaborative, more sustainable and economical.

Robyn King of the Yaak Valley Forest Council (a local environmental group working to achieve permanent protection for the Yaak Valley's last unprotected roadless areas) and I were invited to work with a task force from the mill, to see whether we could help find some "extra" volume. With the help of local U.S. Forest Service leadership, local businesspeople, mill workers and elected officials, we did, by looking at the overstocked, smaller-diameter groves around nearby communities -- not in the wild, distant backcountry, which is so ecologically and socially valuable in its existing wild state.

It may have seemed odd for a couple of tree huggers to have worked with the lumber industry to locate trees to chop down, but we need a mill in this area. The economic reasons are immediately apparent. A lot of us would also like to see a mill here become a beacon to a future kind of wood production, in which burned and small-diameter logs become the norm. And it was important to keep the mill going because if it couldn't find a way to insure workers in an area contaminated by W.R. Grace's legacy of tremolite fibers -- as well as the creosote and diesel fouling the Stimson mill site -- then all the timber in the world would not allow a business to succeed there.

Stimson ultimately pulled out despite our efforts. But that hasn't stopped the community from pushing ahead. There are dozens of ideas floating around -- for an employee-owned mill, for a nonprofit mill, for the mill to become a center for government pilot projects utilizing new logging procedures.

Our so-far insurmountable problem, though, is the asbestos legacy. The area has been declared a Superfund site, and Montana's senior senator, Max Baucus is working to establish a federally funded "White Lung" fund for asbestosis victims similar to the "Black Lung" fund established for coal miners with silicosis. We'll need that. Meeting the asbestos-related health-care needs of just our small community is likely to cost between \$50 million and \$500 million over the next 60 years.

Meanwhile, Lincoln County continues to struggle. We've rejected some rotten ideas -- like one politically charged proposal to cut more trees in the area's national forests, up to \$1 million of "extra" logging, and to dedicate the money to a local health fund. But the community understands the need to hold together and not allow such "logging-versus-lungs" proposals to pit us against one another. We need our wild forests and we need to take care of the sick and the dying. And we need to find a new way to support work in the woods since the mill left town.

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